

NASHVILLE, TENNESSEE

IN RE:

**APPROVAL OF THE INTERCONNECTION
AGREEMENT AND AMENDMENT
THERE TO NEGOTIATED BY BELLSOUTH
TELECOMMUNICATIONS, INC. AND
MEMPHIS NETWORKX PURSUANT TO
SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

DOCKET NO. 01-00806

ORDER

On September 17, 2001, BellSouth filed the initial petition requesting the Authority approve the parties' interconnection agreement entered into on June 19, 2001 and an amendment to the agreement entered into on June 21, 2001. BellSouth filed a second petition requesting approval of another amendment on October 9, 2001.¹ The petitions came before the Authority at the December 4, 2001 Authority Conference pursuant to Section 251 and 252 of the Act.

¹ This amendment changed the company's name from Memphis Network to Memphis Networkx, LLC, replaced Attachment 4, added rates to Attachment 4, and replaced the rates in Attachment 2. *See Petition for Approval of the Amendment to the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and Memphis Networkx, LLC Pursuant to the Telecommunications Act of 1996*, p. 1 (Oct. 9, 2001)

During the December 4, 2001 Conference, the Directors noted that there were inconsistencies between the agreement and amendments and previous Authority decisions.² Thereafter, counsel for Memphis Networkx, LLC indicated that neither she nor Memphis Networkx, LLC were aware of such inconsistencies.³ In order to ensure that the interconnection agreement was the result of informed negotiations, the Directors voted to reconvene at 9:00 a.m. on December 5, 2001 to permit the parties to determine whether there was consent to the inconsistencies.

The Authority reconvened its Authority Conference on December 5, 2001. At the outset, counsel for BellSouth informed the Directors that the parties had negotiated an agreement addressing the concerns raised by the Directors during the December 4, 2001 Authority Conference.⁴ Next, counsel for Memphis Networkx, LLC informed the Directors that Memphis Networkx, LLC was in agreement with and supported the new terms negotiated by the parties as well as all other language contained in the previously submitted agreement.⁵

Based on these representations, a majority⁶ of the Directors voted to order the parties to file the most recent agreement with the Office of the Executive Secretary and, unless otherwise

² The agreement contains language that is inconsistent with previous Authority orders. Specifically, Attachment 2, Section 5.2 reads as follows:

For purposes of this Section, references to "Currently Combined" network elements shall mean that such network elements are in fact already combined by BellSouth in the BellSouth network to provide service to a particular end user at a particular location.

Petition for Approval of the Interconnection Agreement and Amendment Thereto Negotiated Between BellSouth Telecommunications, Inc. and Memphis Networkx Pursuant to the Telecommunications Act of 1996, Interconnection Agreement Between BellSouth Telecommunications, Inc. and Memphis Networkx, Attachment 2, § 5.2 (Sept. 17, 2001). This language is inconsistent with previous Authority's rulings. *See In re: Petition for Arbitration of the Interconnection Agreement between BellSouth and Intermedia*, Docket No. 99-00948, *Interim Order of Arbitration Award*, p. 27 (June 25, 2001); *In re: Petition to Convene a Contested Case Proceeding to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements*, Docket No. 97-01262, *Second Interim Order Re: Cost Studies and Geographic Deaveraging*, p. 10 fn. 17 (Nov. 22, 2000); *In re: Petition by ICG Telecom for Arbitration of an Interconnection Agreement with BellSouth*, Docket No. 99-00377, *Final Order of Arbitration*, pp. 4-5, (Aug. 4, 2000).

³ *See* Transcript of Proceedings, Dec. 4, 2001, p. 9 (Authority Conference).

⁴ *See id.* Dec. 5, 2001, p. 4 (Authority Conference).

⁵ *See id.*

⁶ Chairman Kyle did not vote with the majority. Instead, she moved for approval citing the fact that both parties agree to the terms. *See id.* at 6.

determined, to allow the agreement and amendments thereto to go into effect on December 17, 2001 pursuant to Section 252(e)(4) of the Act.⁷ The majority further instructed the parties to file a document outlining all areas in which the agreement and amendments are inconsistent with previous Authority orders no later than December 19, 2001.

IT IS THEREFORE ORDERED THAT:

1. BellSouth Telecommunications, Inc. and Memphis Networkx, LLC shall file the most recent agreement with the Office of the Executive Secretary and, unless otherwise determined, the agreement and amendments thereto shall become effective on December 17, 2001 pursuant to Section 252(e)(4) of the Act.⁸

2. BellSouth Telecommunications, Inc. and Memphis Networkx, LLC shall file a document outlining all areas in which the agreement and amendments are inconsistent with previous Authority orders no later than **December 19, 2001**.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director



Melvin J. Malone, Director

ATTEST:



K. David Waddell, Executive Secretary

⁷ See 47 U.S.C. § 252(e)(4) (Supp. 2000). A negotiated agreement is deemed approved ninety (90) days after its submission for approval if the state commission does not approve or reject the agreement.

⁸ The Authority issued no further findings or orders in regard to the effectiveness of the agreement and amendments.
**** Chairman Kyle did not vote with the majority.